

**STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION
DOCKET NO. 2021-88-E**

IN RE:)
)
Dominion Energy South Carolina, Inc.'s)
2021 Avoided Cost Proceeding Pursuant to)
S.C. Code Ann. Section 58-41-20(A))
_____)

**MOTION FOR COMMISSION TO
REVIEW THE SUFFICIENCY OF
DESC'S APPLICATION**

Dominion Energy South Carolina, Inc. ("DESC" or "Company") filed its Application in this matter on April 22, 2021. Pursuant to S.C. Code Ann. Regs. § 103-829, the South Carolina Department of Consumer Affairs (the "Department"), by and through its undersigned counsel, hereby submits this Motion requesting the Commission review the sufficiency of the Application. The Department believes the Application is deficient as a matter of law and should be revised immediately. If the Application is not revised, the Department and other parties will be unfairly prejudiced in the preparation of their cases, and the Commission's third-party consultant will be prejudiced as well. The Department requests expedited review of this Motion.

Pursuant to S.C. Code Ann. § 37-6-604 (2018), the Department may intervene as a party to advocate for the interests of consumers before the South Carolina Public Service Commission. In that capacity, the Department petitioned to intervene in this matter and the Commission approved the petition on April 26, 2021.

Pursuant to S.C. Code Ann. § 58-41-20(A), in this docket, the Commission must establish DESC's "standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section." By Order No. 2021-166, the Commission established the docket's procedural schedule. That Order required DESC to submit its application by April 22, 2021 and to submit its direct testimony by

June 29, 2021. All other parties' direct testimonies are due July 13, 2021. The hearing is scheduled to begin August 18, 2021.

DESC's April 22nd Application includes only one proposal for the Commission to consider- the PR-Avoided Cost Methodology tariff. Because the Difference in Revenue Requirements ("DRR") methodology was previously approved in Order No. 2019-847, DESC's Application states the Company "does not propose to update its Rate PR-Avoided Cost Methodology tariff in this proceeding but requests that the Commission approve the continuation of that tariff." (Application, para.45, p.14).

Regarding the remaining items, the Application states "[c]onsistent with the Commission's order, DESC will develop and submit for review and approval its current proposals and recommendations for its standard offer, avoided costs methodologies, form contract power purchase agreements, commitment to sell forms, and all other appropriate terms and conditions as part of filing its direct testimony in this proceeding." (Application, para.10, p.4) (Emphasis added). *See also*, Application, para. 25, p.9 ("Consistent with and pursuant to the Commission's scheduling Order, the Company will submit a Standard Offer for review and approval as part of filing its direct testimony."); Application para.44, p.14 ("Consistent with and pursuant to the Commission's scheduling Order, the Company will develop and propose reasonable and prudent Rate PR-1 and Rate PR-Standard Offer- tariffs..."); Application, para.47, p.15 ("Consistent with and pursuant to the Commission's scheduling Order, the Company will develop and propose a reasonable and prudent Rate PR-Form PPA for review and approval..."; and Application, para.51, p.16 ("Consistent with and pursuant to the Commission's scheduling Order, the Company will submit a proposed NOC Form as part of filing its direct testimony in this proceeding.") (Emphasis added in each).

There is nothing in the Commission's scheduling order or its regulations that support DESC filing proposals with direct testimony instead of with its application. S.C. Code Ann. Regs. § 103-823 requires an application be submitted "for any authorization or permission which the Commission is empowered to grant". Section 103-823(A) requires applications "state clearly and concisely the authorization or permission sought". (Emphasis added). Further, § 103-823(A)(4) authorizes the Commission to require an application to include any additional information it deems necessary. ("All other information ... as may be required by the Commission in a particular proceeding."). Additionally, S.C. Code Ann. Regs. § 103-819 addresses the content of a pleading, which is defined by § 103-804(O) to include applications and petitions. Part D of § 103-819 requires a pleading include "[a] statement identifying the specific relief sought by the person filing the pleading." (Emphasis added).

Other than requesting approval for the continuation of a previously approved DRR methodology, DESC's Application does not identify "clearly and concisely" the "specific relief sought"- in this case the standard offer, avoided cost methodologies, form contract PPAs, commitment to sell forms, and other appropriate terms and conditions. It merely iterates, without explanation, that these items will be provided at a later date. Therefore, the application fails to comply with the regulations cited above.

DESC admits that it will provide the additional items for approval as part of its direct testimony, over two months after filing the Application. By doing so, the parties in this docket will have only two weeks to review DESC's actual relief sought. Further, the parties will have lost two months in which they could have contracted with consultants and experts to review the Application. This is two months in which no relevant discovery or case preparation can occur.

Further, this is two months lost for any potential third-party consultant the Commission may hire to begin reviewing the matter.

Not only has DESC disadvantaged any current intervenors and the Commission, but it has also hindered others who may be deciding whether to intervene. Order No. 2021-166 created a May 28, 2021 deadline for intervention. Those potential parties have nothing to review that will help them determine if they may be impacted by the filing.

As the Department noted in Docket No. 2020-247-A when it suggested the Commission require companies submit direct testimony and supporting documentation with applications, utilities have months or even years to prepare their applications for filing. Other parties are at an extreme time disadvantage when requesting, receiving, reviewing, and responding to a company's application and associated calculations and supporting documents. The Department's comments in 2020-247-A were meant to improve efficiency and uniformity¹ and ultimately lead to more thorough, informed hearings and final orders. DESC, with its deficient application and egregious disregard for the Commission's regulations, has exacerbated its time advantage and created further inefficiency, which will likely result in less informed testimony in this matter.

For these reasons, the Department requests the Commission find DESC's Application to be deficient and not in conformance with S.C. Code Ann. Regs. § 103-823. The Department further requests the Commission use its authority under § 103-823(A)(4) to require DESC to immediately submit proposals for its standard offer, avoided costs methodologies, form contract power purchase agreements, commitment to sell forms, and all other appropriate terms and conditions for which it seeks approval. DESC must submit this information no later than June 1, 2021 to prevent

¹ For comparison, see the avoided cost application and exhibits of Duke Energy Progress and Duke Energy Carolinas in dockets 2021-89-E and 2021-90-E, which include proposals for each of the items required to be established by 58-41-20(A).

further prejudice to the parties and Commission in this docket. In the event DESC argues this is not possible, alternatively and as a matter of fairness to the other parties, the Commission should consider revising the procedural schedule to allow additional time for review of DESC's proposals.

Respectfully submitted,

S.C. DEPARTMENT OF CONSUMER AFFAIRS



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CERTIFICATE OF SERVICE

I, Roger Hall, hereby certify that the foregoing document was served on May 12, 2021 by electronic mail on the following parties at the addresses listed in the official service list for Docket 2021-88-E.

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